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EIGHTH REPORT BY THE COMMISSION TO THE COUNCIL

on the implementation of Regulation (EEC) No 543/69
of the Council of 25 March 1969 on the harmonization
of certain social legislation relating to road transport

Period covered by the report: 1 January to 31 December 1978

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A. INTRODUCTION

1. This is the eighth General Report on the implementation by the Member States of Council Regulation (EEC) No. 543/69 of 25 March 1969. Under Article 17 of this Regulation, the Commission is required to present such a report to the Council. The eighth Report covers the period 1 January to 31 December 1978.

2. In 1978, the Regulation was applied in the United Kingdom to domestic as well as international transport operations in accordance with the amendments arising out of Commission Decision 78/85/EEC of 21 December 1977. In the same year, consultations took place with the Commission in the matter of the draft legislation to implement the Council Regulation insofar as domestic transport operations in Ireland are concerned ; however, these provisions were not put into effect until January 1979.

3. Despite repeated efforts on the part of the Commission to get the Member States to provide the necessary information some countries were still very slow in submitting their reports, which varied as to the amount of information they contained. Furthermore, the figures were not presented in a uniform fashion so that the Commission is still finding it extremely difficult to draw comparisons. Whilst some Member States were very generous with their statistics, others forwarded but a handful of figures or none at all.

4. Section B contains a comparative analysis of the information supplied by the individual Member States and Section C the conclusions drawn from their reports.

B. COMPARATIVE ANALYSIS OF INFORMATION SUPPLIED BY THE MEMBER STATES

I. ORGANIZATION OF CONTROL

1. Administrative organization of inspection

Administrative arrangements in the Federal Republic of Germany, the Netherlands, Luxembourg, the United Kingdom, Belgium and Denmark were described at length in the 1977 report. France reported that various measures have been adopted in order to help the authorities to recruit more staff and obtain necessary equipment. They will be implemented in stages throughout the duration of the Seventh Five-Year Plan (1 January 1976 to 31 December 1980). At the same time, the Ministry of Transport has invested in a semi-automatic device for analysing tachograph discs. Another of these machines is to be acquired in the near future.

The Italian Government had nothing to add to the sparse information it provided in 1977.

Ireland has at last provided relevant information to the Commission. The Irish authorities reported that they have now made arrangements to monitor the application of the Community rules both on the road and at operators' premises. The Department of Labour is responsible for carrying out this task. The "Garda Siochana" will carry out checks on the road and at the ports while inspectors appointed by the Minister for Labour will carry out checks at operators' premises.

2. Authorized inspecting officers and their powers

In France, 43 factory inspectors (transport) and 280 traffic examiners (contrôleurs des transports terrestres) were responsible for monitoring the implementation of Regulation 543/69 in 1978.

These government officials carry out checks both on the road and at firms' premises. In addition, some 6 500 police and gendarmerie motorcyclists carry out roadside checks. Any infringements are reported to the relevant authorities for further action. The "police judiciaire" (criminal investigation department) and officials authorized to record road traffic offences may impound vehicles if their drivers have breached the rules on driving and rest periods in road transport.

In the Federal Republic of Germany, as in 1977, some 2 500 officials (police, the BAG, factory inspectors) were responsible for monitoring the employment and activities of road haulage drivers as part of their wide -ranging duties.

The factory inspectorate employs about 250 to 300 officials. The inspectors have the power to conduct investigations and to report offenders with a view to the imposition of penalties. The factory inspectorate can impose fines for breaches committed in long-distance road transport. The BAG alone can impose fines in relation to infringements by foreign drivers and operators on the roads of the Federal Republic.

In Belgium, checks were carried out by 287 factory inspectorate officials (inspectors and assistant inspectors) and 50 examiners and inspectors from the Transport Administration. These officials were invested with the same powers as in 1977.

In the United Kingdom steps were taken to fill the vacancies referred to in the previous report. At 31 December 1978, the number of officers had been increased to 226, compared with 217 in 1977. The powers of Traffic Examiners and police remain unchanged and are as stated in the previous report.

The Luxembourg Government reported that there had been no changes in its checking system, details of which were given in the 1973 report.

In the Netherlands, checks are carried out by the inspection division of the National Transport Inspectorate (Rijksverkeersinspectie), which comes under the directorate-general for transport in the Ministry of Transport and Waterways and has a total of 173 inspectors (more than in 1977) in addition to administrative staff. The factory and inspectorate national and local police also assist in conducting checks. Where there has been a serious breach of the decree relating to driving time, officials have the power to prohibit the driver from taking the road and, after consultation with the public prosecutor, to impound the vehicle. The transport operator must bear the costs. They have access at any time to any premises in pursuance of their duties where this is considered necessary and they may ask to see any documents they require to satisfy themselves that the decree on driving time is being observed.

The Irish Government reported that roadside checks and checks at ports are carried out by Traffic Comps officers (250 in all). One of their main tasks is to monitor the implementation of social legislation relating to road transport. Moreover, in addition to their normal duties, customs and excise officers stationed at frontiers and ports are also responsible for ensuring that Regulation 543/69 is observed. Finally, four Department of Labour inspectors are engaged solely in carrying out inspections at transport operators' premises. The Irish Government reported that the powers of officers and inspectors were unchanged compared with previous years.

The Italian Government stated that checks are carried out by traffic police officers and the factory inspectorate, but could not give figures as to the number of officers involved.

There has been no change in Denmark as regards inspecting officers since the last report.

A comparison of the figures given in the Member States' reports shows that the number of officers actually engaged in inspection activities continues to vary considerably from one country to the next. Thus, the Netherlands, Belgium, the United Kingdom and France have recruited more staff for inspection purposes. No new staff have been recruited in Luxembourg, Denmark, the Federal Republic of Germany or Ireland, where checking has not always been meticulously carried out. Italy omitted once more to provide the Commission with figures relating to its inspection force, whose main task is to ensure that Regulation 543/69 is properly implemented.

3. Methods of inspection (place and frequency)

In France, the inspection methods used were the same as in 1977. Roadside checks were carried out primarily to ensure that documentary records and mechanical instruments were properly used and that standards directly affecting road safety were being observed. The number of checks carried out at operators' premises was 24 928 in 1978 as against 17 673 in 1977. A total of 188 824 record sheets were analysed.

A total of 303 688 crews were checked on the road, but checks carried out by the Gendarmerie, for which no figures are available, also led to the detection of infringements and should be added to this total.

Checks in Germany were carried out in the manner described in previous reports. In all, 48 161 checks were made, of which 11 459 at operators' premises and 36 702 on the road. The Commission notes that the number of checks has again fallen compared with the previous year.

In Belgium, the "Inspection sociale" (Factory Inspectorate) was responsible for the bulk of the checks made at operators' premises - 895 inspections were conducted (594 relating to road haulage operations and 301 to passenger transport). The Belgian Government reported that transport department officers conducted about 8 300 roadside checks (7 200 on road haulage vehicles and 1 100 on passenger transport vehicles). These figures are identical to those for 1977. There were no figures available for roadside checks carried out by the Gendarmerie, Customs and other departments, but the number amounted to several thousand.

In the Netherlands, officials of the National Transport Inspectorate (see above) carry out regular roadside checks ; the police often help with checks on motorways by stopping vehicles. Frequent border checks are also made. As for checks on heavy vehicles, the police is responsible for technical matters and the National Inspectorate deals with the administrative aspect. The number of checks made during the period under review exceeded 140 000, slightly fewer than in 1977. In addition to checks at firms' premises following the detection of infringements during roadside checks, National Transport Inspectorate officials conducted 211 in-depth investigations into certain operators' activities.

As in 1977, inspection in the United Kingdom took the form of vehicle checks on trunk roads (twice a week) organized by the Department of Transport traffic areas in conjunction with the police. Checks on about 10 to 15% of incoming vehicles at ports of entry into the United Kingdom were made and "silent" checks also took place. In 1978, 178 580 goods vehicles were inspected. This figure was ten times higher than that for 1977 as a result of the application of the Regulation to domestic traffic. The figures refer solely to the activities of Ministry of Transport officials responsible for checking as there is no complete register of the measures taken by the police. No figures were given for checks on passenger-carrying vehicles.

The Luxembourg Government reported that there have been no changes in inspection methods but as in the past it omitted to provide figures relating to the actual number of checks made.

The Danish Government reported that the Factories Inspectorate, in conjunction with the police, carried out a large number of wide-ranging and systematic checks to determine whether the provisions on driving time and rest periods were being observed. These operations took the form of spot checks at major intersections. In addition, the police were able to ensure that the rules were being observed in the course of checks carried out in connection with road traffic legislation. Unfortunately, the Danish Government also omitted supply figures relating to the number of checks carried out.

Monitoring of the implementation of the Community rules in Italy consists mainly of inspections at operators' premises to check whether the log book and duty rosters have been drawn up and used and whether the tachograph has been installed in vehicles where this is required. In addition, a constant check is kept on vehicles on the road by traffic police officers. In 1978, manual records were replaced almost entirely by an automatic recording system using the tachograph.

As in previous years, checks took place in the course of inspections provided for under Italian Labour Law, i.e. at irregular intervals. Consequently, the Italian authorities could not supply figures relating to the number of firms at whose premises inspections were carried out.

In the table below, the Commission has attempted to indicate the number of checks carried out in each Member State in order to give an idea of the scale of inspection operations in the various countries. The most detailed information was supplied by Germany, France and Belgium, both from the point of view of the place and number of checks made. However, the result would suggest that the figures relating to the number of checks carried out do not, unfortunately, present a ready basis for comparison as some countries (such as Belgium and the Federal Republic) do not indicate clearly whether they relate to the number of inspection operations or the actual number of crews checked.

The Commission regrets that the number of checks carried out in the Netherlands and the Federal Republic of Germany is lower than in the previous year and that the United Kingdom has still not carried out inspections at firms' premises or checks on passenger vehicles.

In any case, comparison on this point is impossible since Luxembourg and Italy failed to supply figures and Ireland supplied no information whatsoever.

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As in 1972, the number of checks on passenger vehicles carried out in the Federal Republic of Germany in 1973 was 1,000,000. The number of checks on passenger vehicles carried out in the Netherlands in 1973 was 1,000,000. The number of checks on passenger vehicles carried out in Belgium in 1973 was 1,000,000. The number of checks on passenger vehicles carried out in France in 1973 was 1,000,000. The number of checks on passenger vehicles carried out in Italy in 1973 was 1,000,000. The number of checks on passenger vehicles carried out in Luxembourg in 1973 was 1,000,000. The number of checks on passenger vehicles carried out in Ireland in 1973 was 1,000,000.

NUMBER OF CHECKS CARRIED OUT IN 1978

Member State	Roadside	Operator's premises	Comparisons between 1977 and 1978
Germany	36.702	11.459	Fewer checks in 1978
France	303.688 ¹	24.928 + 188.824 record sheets analysed	More checks in 1978
Belgium	8.300 ²	895	No change
Italy	No information	No information	-
Luxembourg	idem	idem	-
Netherlands	140.000 ³	211 in-depth checks	Slightly fewer checks in 1978
United Kingdom	178.580 ⁴	No information	10% increase
Denmark	No information	No information	-
Ireland	idem	idem	-

¹ Checks carried out by the Gendarmerie should be added (figures not supplied).

² No figures made available for checks carried out by the police, customs and other departments, estimated at several thousand.

³ Figures drawn from a survey.

⁴ No figures available on measures taken by the police.

II. BREACHES AND PENALTIES

1. Number of breaches of the Regulation

In France, the Factory Inspectorate detected 106.068 breaches in the course of roadside checks, while checks at operators' premises uncovered 88.540 infringements. Thus, the number of infringements detected in the course of roadside checks rose slightly whereas there was a drop in the number detected at operators' premises, despite the fact that more checks were carried out. The latter total can be broken down as follows:

Infringements of Regulation 543/69		Infringements of Regulation 1463/70	
Exceeding maximum		Tachograph discs	
driving period:	continuous: 14.819	unsuitable or not of	
	daily 25.249	approved type:	1.965
	weekly 3.068	Information on record	
	fortnightly 1.462	sheets incomplete	9.228
Insufficient daily rest			
or none at all:	32.759		
	<hr/>		<hr/>
Total	77.357		11.193

There was an increase in the number of infringements detected in the Federal Republic of Germany, although fewer checks were carried out. The number of infringements of Regulation 543/69 rose to about 59.200, of which 36.200 related to goods transport and about 3.000 to passenger transport. Surprisingly, only six infringements of Regulation 1463/70 and the AETR were detected. About 30.200 of the 59.200 infringements concerned rules on working time, and about 28.000 concerned rules regarding the records to be kept.

The table below gives a breakdown.

Breaches of Regulation 543/69 in the Federal Republic of Germany

Article	Goods transport		Passenger Transport			
			Regular services		Occasional services	
	National	Foreign	National	Foreign	National	Foreign
6	9	2				
7/1	3.760	347			13	1
7/2	10.223	565			14	1
7/4	185	14	1		1	1
7/1	2.000	72	11	1	327	61
(Vehicles not referred to in Art. 6)						
7/3	1.351	74	57	9	426	98
7/4	45	1	10	4	12	1
8	2.793	384	4	1	162	58
11/1	6.633	835				
11/2			57	29	445	84
12	76	6	11	2	59	6
14/1	16.762	134			95	21
14/2	7.905	2.122			523	318
17 Reg. 1463/70						
15/1	6	9	46			
15/5	7	3	54	4		

In Belgium, the fall in the number of infringements detected in 1977 was not repeated in 1978. However, the increase was minimal. In 1977, 9.075 checks uncovered 803 infringements, compared with 9.195 checks and 896 infringements in 1978. A total of 525 infringements were detected in connection with goods transport operations (378 by the transport department and 147 by the factory inspectorate); the factory inspectorate also detected 20 infringements in regular passenger transport operations and 9 in connection with occasional passenger transport.

Breaches of Regulation 543/69 in Belgium

Goods transport	
Article	Breaches
6	4
7/1	2
7/2	21
7/4	20
8	1
11	21
12	0
14/1	276
14/2	14
14/7	40
14/8	19
Annex 4	1
15/1	11
15/2	0
16 (1)	43
Reg. 1643/70 (2)	52
	<u>525</u>

(1) Vehicles not fitted with recording equipment.

(2) Vehicles fitted with recording equipment (various infringements).

Regular passenger services	
Article	Breaches
15	10
14/2	3
14/7	3
14/8	4
	<hr/>
	20

It should be borne in mind that all the firms checked were Belgian and all the vehicles Belgian-registered.

Occasional transport services	
Article	Breaches
14/2	1
14/7	1
14/8	1
7/1	1
7/2	2
7/4	1
11	1
12	1
	<hr/>
	9

Unfortunately, the responsible departments did not state whether the figures relating to passenger transport referred to individual checks on buses or operations during which several such vehicles were checked.

An estimated 1,000 road checks were carried out by the transport department on passenger transport operations and a total of 342 infringements were detected. As was the case for checks carried out by the factory inspectorate, the Belgian authorities did not indicate whether their figures related to the number of vehicles involved or the number of checks.

Denmark reported a total of 577 infringements. This figure, which relates exclusively to offences committed by Danish nationals, breaks down as follows:

Breaches of Regulation 543/69 in Denmark	
Article	Breaches
7	58
8	8
11	47
14	460
15	4
	<hr style="width: 50px; margin: 0 auto;"/>
	577

It is interesting to note that most of the breaches recorded were committed in conjunction with infringements of other Articles of the Regulation. Nevertheless, the information supplied by the Danish Government shows no evidence of checks having been carried out on non-Danish nationals, thus ruling out a proper application of the Regulation in that country.

Ireland failed yet again to forward any information concerning breaches of the Regulation.

The number of infringements of the Community Regulation continued to fall in Luxembourg. The Government reports that the breaches recorded in the table below were committed mainly by Luxembourg nationals in the course of international goods transport operations.

Breaches of Regulation 543/69 in Luxembourg	
Article	Breaches
6	1,675
7/2	3,182
7/4	148
8	1,026
11	6,099
12	29
14	207
	<hr style="width: 50px; margin: 0 auto;"/>
	6,966

The Luxembourg authorities also informed the Commission that checks on operators and crew members showed that by and large they were complying with their main obligations.

The Commission is bound to conclude, on the basis of the information provided, that checks on foreign transport operators in Luxembourg need to be stepped up.

Figures supplied by the Dutch authorities show that 68.2% of all infringements detected relate to the use of the individual control book (5.4%) and the tachograph (62.8%).

A breakdown of the infringements detected in the Netherlands is given in the table below:

Breaches of Regulation 543/69 in the Netherlands

Article	Goods transport	Passenger transport	
		Regular services	Occasional services
6	89	-	-
7/1	2.518	-	7
7/2	5.038	-	13
7/3	313	1	50
7/4	43	-	-
8	-	-	-
11/1	5.043	-	-
11/2	-	10	113
12	12	7	2
14/1	1.110	24	28
14/2	1.010	25	41
14/4	15.524	24	191
15/1	-	1	-
15/5	-	1	-
16	10.186	1	305
	40.886	94	750

Figures relating to breaches of the Regulation detected in the United Kingdom are given in the table below. A little over 6.7 % of the vehicles checked (12 016) were found to be in breach of the Regulation.

Breaches of Regulation 543/69 in the United Kingdom											
Article	Nationality of the offenders										Total
	UK	B	FRG	DK	F	I	IRL	L	NL	Other countries	
6	-	-	-	-	1	-	-	-	-	-	-
7	2 280	-	-	-	2	-	2	-	1	-	2 285
8	292	-	-	-	1	-	-	-	-	-	193
11	206	1	-	1	1	-	2	-	-	-	211
12	142	-	-	-	-	-	-	-	-	-	142
14/1	1 679	-	1	-	4	3	47	-	3	7	1 744
14/2	6 499	-	1	-	13	9	25	-	3	10	6 560
14/7	781	-	-	-	-	-	-	-	-	-	781
Total	11 878	1	2	1	22	12	76	-	7	17	12 016

The Italian Government reported that in most cases infringements related to documents containing incomplete or inaccurate information. It was found that information entered on daily tachograph sheets was incomplete and the sheets were not correctly filled in. However, no precise figures could be given since the automated equipment at the Ministry of Transport's automatic data processing centre is not yet in operation.

2. Infringements by nationals and foreigners respectively : comparative figures

Fairly detailed figures were supplied by the United Kingdom Government (see Table, page 16). The responsible authorities checked 4 568 foreign vehicles and detected 138 infringements (about 3%). A total of 174 012 UK vehicles were checked and the number of infringements revealed was 11 878 (6.8%).

In France, a total of 274 121 French crews and 29 567 foreign crews were checked on the road in 1978. These checks led to the detection of 100 778 infringements by French crews and 5 290 by non-French crews.

The Federal Republic of Germany again supplied very detailed figures. Non-German drivers and transport operators accounted for about 8.7% of all infringements. In 1978, the responsible authorities detected 53 990 infringements by German crews and 5 068 by foreign crews (see Table, page 10).

In Belgium, 21 of the 525 infringements reported in the goods transport sector related to vehicles registered in other Member States of the Community. Table I below gives a breakdown of these infringements and Table II a breakdown of the 504 infringements committed by Belgians. For passenger transport, Tables III and IV give a breakdown of the infringements committed by non-Belgians and Belgians respectively; about 13% of those detected were committed by non-Belgians.

Table I

<u>Goods transport</u>									
<u>Breaches of Regulation 543/69 in Belgium by non-Belgians</u>									
Article	Nationality of the offenders								Total
	IRL	L	NL	FRG	I	DK	F	UK	
7/1	-	-	-	-	1	-	-	-	1
14/1	-	-	-	-	1	-	8	1	10
Regulation 1463/70	-	1	4	3	1	-	-	1	10
Total	0	1	4	3	3	-	8	2	21

Table II

<u>Goods transport</u>	
<u>Breaches of Regulation 543/69 in Belgium by Belgian nationals</u>	
Article	Breaches
6	4
7/1	1
7/2	21
7/4	20
8	1
11	21
14/1	266
14/2	14
14/7	40
14/8	19
14/annex 4	1
15/1	11
16	43
Regulation 1463/70	42
	<u>504</u>

Table III

<u>Passenger transport</u> <u>Breaches of Regulation 543/69 in Belgium by non-Belgians</u>								
Article	Nationality of the offenders							Total
	NL	DK	FRG	I	L	F	UK	
14/1	-	-	4	-	-	1	-	5
14/2	-	-	1	-	-	-	1	2
16	2	-	1	1	-	2	1	7
Regulation 1463/70	32	1	28	16	3	17	1	98
Total	34	1	34	17	3	20	3	112

Table IV

<u>Passenger transport</u> <u>Breaches of Regulation 543/69 in Belgium by Belgian nationals</u>	
Article	Breaches
14/1	33
14/2	12
16	30
Regulation 1463/70	155
	<u>230</u>

The detailed table sent in by the Dutch authorities shows that 40 959 infringements were committed by Dutch crews and 771, i.e. about 2% by foreign crews (little change from 1977).

Breaches of Regulation 543/69 in the Netherlands								
Article	Nationality of offenders							
	NL	B	DK	FRG	UK	F	I	Other countries
6	87	-	-	-	-	2	-	-
7/1	2 449	15	3	17	-	37	4	-
7/2	4 921	55	4	23	-	37	8	3
7/3	341	10	4	4	-	1	1	3
7/4	43	-	-	-	-	-	-	-
8	-	-	-	-	-	-	-	-
11/1	4 892	67	5	32	-	37	6	4
11/2	100	18	2	-	-	-	1	2
12	21	-	-	-	-	-	-	-
14/1	1 143	7	6	2	2	2	-	-
14/2	1 073	-	1	-	2	-	-	-
14/4	15 672	14	1	38	1	13	-	-
15/1	1	-	-	-	-	-	-	-
15/5	1	-	-	-	-	-	-	-
16	10 215	155	7	32	7	50	15	11
Total	40 959	341	33	148	12	179	35	23

Italy and Ireland did not supply information. Luxembourg and Denmark again failed to distinguish between nationals and non-nationals.

INFRINGEMENTS

Number of infringements detected

	By nationals of the Member State concerned			By foreigners			TOTAL
	Goods	Passenger		Goods	Passenger		
		Regular	Occasional		Regular	Occasional	
Federal Republic of Germany	51 759 (1)	251 (1)	2 077 (1)	4 568	50	650	59 355
France	100 788 (2)		88 540 (3)	5 290 (2)			194 608
Belgium	504	259		21	112		896
Italy	No details supplied						-
Luxembourg	6 966 (4)						6 966
Netherlands	40 369	92	664	681	2	88	41 896
United Kingdom	11 878			138			12 016
Denmark	577 (5)						577
Ireland	No details supplied						-

(1) Including foreigners where the Länder were unable to provide separate figures.

(2) Detected on the road - no distinction between goods and passenger transport operations.

(3) All infringements detected in the course of checks at operators' premises - no breakdown.

(4) Mainly committed by Luxembourg nationals engaged in international transport operations.

(5) Figure relates exclusively to infringements by Danish nationals.

The Commission has drawn up a comparative table (see previous page) of the infringements detected. Although the figures supplied by the Member States indicate that the situation has continued to improve since 1977 it is unfortunately not always possible to draw valid comparisons. The method of recording data should be further standardised and there should be a more uniform presentation of the figures so that the Commission can gauge more effectively the progress being made towards harmonization.

Unfortunately, Germany was the only country to mention infringements of the AETR. The fact that the Member States are not monitoring the implementation of this European Agreement is perhaps largely due to the differences between the provisions of the AETR and those of Regulation 543/69. Be that as it may, the AETR was incorporated in Community legislation on 1 January 1978 (see Council Decision No 2829/77 of 12.12.1977, OJ No L 334/11 of 24.11.1977) in conformity with Article 2(2) of Regulation 543/69.

3. Penalties imposed

The information supplied was so multifarious as to make precise evaluation practically impossible.

As far as Belgium is concerned, previous reports have already set out the reasons for the considerable time-lag between the institution of proceedings and the passing of sentences. These reports show that the list of official reports made over the year and the action known to have been taken by the time submissions for this report were due only give a partial picture of the actual situation as regards penalties imposed. In the goods transport sector, for example, 525 infringements gave rise to 407 official reports but penalties were imposed in only three cases. In passenger transport, 342 official reports were made but no penalties were imposed by the courts.

Official reports and action taken - goods transport operations						
Article	Number of official Reports	No further action	Out of Court settlements	Acquittals	Penalties imposed by courts	Follow-up unknown
6	2	1	-	-	-	1
7/1	1	-	-	-	-	1
7/2	1	1	-	-	-	-
14/1	276	24	37	1	1	213
14/2	15	-	1	-	-	14
14/8	2	-	-	-	-	2
Annex	1	-	-	-	-	1
16/8	35	-	1	-	-	34
Regulation 1463/70	74	2	4	-	2	66
Total	407	28	43	1	3	332

Official reports and action taken - passenger transport operations						
Article	Number of official reports	No further action	Out of Court settlements	Acquittals	Penalties imposed by courts	Follow-up unknown
7	-	-	-	-	-	-
11/1	-	-	-	-	-	-
14/1	38	4	-	-	-	34
14/2	14	-	-	-	-	14
14/7	-	-	-	-	-	-
14/8	-	-	-	-	-	-
16	37	2	7	-	-	28
Regulation 1463/70	253	6	10	-	-	237
Total	342	12	17	0	0	313

Surprisingly and regrettably, conspicuously few penalties were imposed in Belgium in 1978.

The table below illustrates the situation in the Federal Republic of Germany in 1978 :

I.

Penalties imposed on German crew members in the Federal Republic			
Type of penalty	Number		Comparison with 1977
	1977	1978	
Oral warning (without fine)	6 681	7 543	more warnings
Written warning (without fine)	358	414	
Warning and cautionary fine			
a) operators	4 486	3 805	fewer warnings
b) crew members	8 049	6 862	
Administrative order imposing fine			
a) operators	5 324	4 781	fewer fines imposed
b) crew members	12 535	12 369	
Court proceedings instituted	Two	One	

In addition, 230 written warnings were issued, of which 53 to operators and 177 to crew members.

II.

Penalties imposed on foreign crew members in the Federal Republic of Germany											
Administrative order imposing fine			Warnings			Warnings with cautionary fine			Formal warning without fine		
1977	1978	trend	1977	1978	trend	1977	1978	trend	1977	1978	trend
14296	17483	↗	930	1027	↗	16308	17696	↗	1832	823	↘

The BAG is alone responsible for imposing fines on foreign crew members and operators when infringements occur on the roads of the Federal Republic of Germany. This body imposed a total of 17 483 fines (as against 14 296 in 1977). In addition, 1 027 warnings (930 in 1977), 823 formal warnings without fine (1832 in 1977) and 17 696 warnings with cautionary fine (16 308 in 1977) were issued.

The Commission is pleased to note that there has been an increase in the severer fines and warnings.

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In France, a total of 14 573 fines were imposed as a result of officials reports drawn up by factory inspectors (transport) and road traffic examiners.

Amount (FF)	Number of fines	%
Less than FF 40	4 086	28 %
FF 41 to FF 100	4 317	29.6 %
FF 101 to FF 160	2 587	17.8 %
FF 161 to FF 220	2 088	14.3 %
More than FF 220	1 500	10.3 %
Total	14 573	100 %

The Netherlands once again supplied a very detailed breakdown of the fines imposed in 1978 (FL 1 459 563 in total, down on 1977). The Commission would like to congratulate the Dutch authorities on their very detailed tables which could serve as an example for the other Member States.

Official reports and inspection reports in respect of goods and passenger transport operations in the Netherlands					
Country	Official reports	Inspection reports *	Infringements	Total of fines in FL	Official reports on which no action was taken
Netherlands	9 317	-	40 959	1 456 998	482
Denmark	9	4	33	-	6
Belgium	80	2	341	1 555	7
Federal Republic	32	-	148	410	20
United Kingdom	4	2	12	-	4
France	41	-	179	500	23
Italy	6	-	35	100	4
Non-member countries	5	1	23	-	5
Total	9 494	9	41 730	1 459 563	551

* No penalties imposed

Penalties imposed on Dutch goods transport operators			
Article	Official reports	Infringements	Total of fines (FL)
6	2	2	-
7/1	23	36	2 190
7/2	119	171	17 850
7/3	15	22	1 975
11/1	115	147	13 115
14/1	357	364	26 853
14/2	68	338	5 985
14/4	3 027	6 930	366 972
16	1 862	4 692	192 278
Various articles	3 528	27 667	805 575
Total	9 116	40 369	1 432 793
Penalties imposed on Dutch operators in respect of regular passenger services			
Article	Official reports	Infringements	Total of fines (FL)
11/2	1	1	100
12	1	6	25
14/1	23	23	1 725
14/2	11	24	1 205
14/4	11	16	700
16	1	1	-
Various articles	5	21	590
Total	53	92	4 345

Penalties imposed on Dutch operators in respect of occasional passenger services			
Article	Official reports	Infringements	Total of fines (FL)
7/2	1	1	150
11/2	3	5	275
14/1	9	9	600
14/2	2	2	150
14/4	93	123	8 405
16	67	96	6 310
Various articles	58	428	11 440
Total	233	664	27.330

Penalties imposed on Belgian goods transport operators				
Article	Official reports	Inspection report	Infringements	Total of fines (FL)
6	-	-	-	-
7/2	2	-	2	-
14/1	5	-	6	225
14/2	-	-	-	-
14/4	7	-	8	-
16	24	-	64	410
Various articles	33	2	208	880
Total	71	2	288	1 515

Penalties imposed on Belgian operators in respect of regular and occasional passenger services				
Article	Official reports	Inspection report	Infringements	Total of fines (FL)
Regular passenger transport				
Various articles	1	-	2	-
Total :	1	-	2	-
Occasional passenger services				
16	2	-	11	-
Various articles	6	-	40	40
Total :	8	-	51	40
Penalties imposed on Danish goods transport operators in respect of goods transport and occasional passenger services				
Article	Official reports	Inspection report	Infringements	Total of fines (FL)
Goods transport				
14/2	1	-	1	-
16	1	-	3	-
Various articles	5	-	14	-
Total :	7	-	18	-
Occasional passenger transport				
14/1	-	3	5	-
Various articles	2	1	10	-
Total :	2	4	15	-

Penalties imposed on German goods transport and occasional passenger transport operators				
Article	Official reports	Inspection report	Infringements	Total of fines (FL)
Goods transport				
11/1	1	-	1	-
14/1	2	-	2	125
16	5	-	8	-
Various articles	23	-	135	285
Total :	31	-	146	410
Occasional passenger transport				
14/1	1	-	2	-
Penalties imposed on French goods transport operators				
Article	Official reports	Inspection report	Infringements	Total of fines (FL)
11/1	1	-	1	-
16	1	-	1	-
Various articles	39	-	177	500
Total :	41	-	179	500

Penalties imposed on Italian goods transport and occasional passenger transport operators				
Article	Official reports	Inspection report	Infringements	Total of fines (FL)
Goods transport				
Various articles	5	-	33	100
Occasional passenger transport				
Various articles	1	-	2	-
Penalties imposed on UK goods transport and occasional passenger transport operators				
Article	Official reports	Inspection report	Infringements	Total of fines (FL)
Goods transport				
14/2	1	-	2	-
14/4	1	-	1	-
16	1	1	4	-
Total :	3	1	7	-
Occasional passenger transport				
14/1	-	1	2	-
16	1	-	3	-
Total :	1	1	5	-

Penalties imposed on goods transport and occasional passenger transport operators from <u>non-member countries</u>				
Article	Official reports	Inspection report	Infringements	Total of fines (FL)
Goods transport				
Various articles	3	-	10	-
Occasional passenger transport				
11/2	1	-	2	-
Various articles	1	1	11	-
Total:	2	1	13	-
Penalties imposed on <u>Dutch</u> road transport operators by the Belgian authorities				
Article	Official reports	Infringements	Total of fines (FL)	
Goods transport				
6	1	1	-	
7/2	2	2	80	
7/3	1	1	100	
14/1	1	1	75	
14/4	30	48	2 565	
16	27	33	1 785	
Various articles	21	78	2 665	
Total :	83	164	7 270	
Occasional passenger transport				
14/4	1	1	200	
16	1	1	-	
Total :	2	2	200	

Unfortunately, Belgium was the only country to supply similar information for Dutch transport operators.

The Commission notes that there was a substantial increase in the number of penalties imposed in the United Kingdom as a result of the extension of the application of Community rules. This situation is reflected in the following table :

Penalties imposed in the United Kingdom road transport sector					
Article	Oral warnings	Written warnings	Prohibitions	Cases prosecuted	Total fines (€)
6	-	-	1	-	-
7/1	30	206	-	208	3 075
7/2	42	1 112	3	311	4 605
7/4	20	164	1	187	2 763
8	45	123	1	124	1 842
11	10	82	5	114	1 688
12	2	41	-	99	1 381
14/1	164	206	63	1 311	19 448
14/2	304	1 649	54	4 553	68 282
14/7	5	123	-	653	10 293
Total :	622	3 706	128	7 560	113 377

Denmark reported that the bulk of penalties consisted of warnings and fines of up to Dkr 3 000.

The Italian Government reported that it is still not possible for it to state the number and nature of the penalties imposed as the automated data handling system is not yet functioning.

Once again, no figures regarding penalties were supplied to the Commission by the Luxembourg and Irish Governments. Luxembourg confined itself to listing the various types of penalty imposed.

As the process of instituting legal proceedings seems to be excessively slow, the Commission feels bound to urge the Member States to devote more attention to this matter. Furthermore, whereas some Member States have supplied detailed information on the fines imposed, others again have provided no details whatsoever. In these circumstances, it is more or less impossible to make useful comparisons.

III. MULTILATERAL NOTIFICATION BETWEEN MEMBER STATES AND NOTIFICATION OF INFRINGEMENTS

In Belgium, the Transport Department took note of 367 official reports on Belgian crew members by German inspecting officers. In addition, lists of official reports on crew members of vehicles registered in other Member States were sent to the relevant authorities for information purposes. The Transport Department was informed of infringements by Belgian nationals in Germany. Unfortunately, no details were received of penalties imposed in other Member States.

As in previous years, the Federal German Government took steps to discuss the implementation of Regulation No 543/69 with neighbouring states. Bilateral talks were held with representatives of the Austrian, Danish, Dutch and French Governments.

In 1978, the French authorities kept the other Member States informed of infringements committed by their nationals in France.

The Dutch authorities reported that no assistance was received or given during the period under review. However, 32 infringements were reported to the Federal Republic of Germany and the number of infringements reported by the Federal Republic and Belgium amounted to 3 691 and 85 respectively. The Federal Republic itself reported that penalties had been imposed in 3 691 cases.

In the United Kingdom, repeated infringements continue to be reported every three months in a standard form to the authorities of the Member States concerned. The United Kingdom Government received only occasional reports of infringements committed by UK operators in other Member States.

Luxembourg reported a number of serious infringements to the Member States concerned.

The Danish authorities did not provide any assistance to other Member States, but received assistance from the Dutch Ministry of Justice (two cases) and the labour tribunal in Bruges (one case). The assistance involved reports on the infringements concerned.

No information is available for Italy and Ireland.

The improvement noted in the previous report was maintained in the period under review. Although there was an improvement in the notification of infringements and penalties imposed, the Commission still feels that foreign offenders are at an advantage as notification between Member States continues to be rather patchy. However, the Commission would like the Member States to suggest how notification of infringements and penalties could be improved. It would also like some Member States to give precise figures relating to the countries concerned.

IV. CONCLUSIONS AND SUGGESTIONS BY THE MEMBER STATES

1. Compliance with the provisions of the Regulation

In Belgium, there was a slight increase in the number of infringements in 1978, reversing the downward trend of 1976 and 1977. Whereas 9 075 checks uncovered 803 infringements in 1977, a total of 9 195 checks in 1978 uncovered 896 infringements, an increase of about 2%.

In the Federal Republic of Germany, the authorities also noted that the social provisions in the field of road transport are not always adequately observed. Checks showed that deterrent measures alone could not convey the importance of the Regulation. According to the German Government, the fact that the provisions of Regulation (EEC) 543/69 do not always coincide with those of the AETR also makes it more difficult for the authorities to carry out relevant checks.

France and Ireland supplied no information

The figures available for the Netherlands show that 6.8% of the checks carried out led to official reports. It is also interesting to note that 68.2% of all infringements concerned the use of control equipment.

The United Kingdom reported that, in the field of international transport (the Regulation was applied to domestic transport operations from 1 January 1978 in accordance with the amendments made to Commission Decision 78/85/EEC of 21.12.1977), operators from all Member States continued to comply to a large extent with the Regulation.

The Luxembourg Government reported that the decreasing number of infringements committed in Luxembourg reflects a promising trend in the application of Regulation (EEC) 543/69.

In Denmark, initial difficulties experienced in applying the Regulation to domestic transport are rapidly being ironed out.

Although the Italian Government was unable to supply any statistics, it reported that all the evidence available thus far indicates that the Regulation is being applied satisfactorily throughout the country.

2. Difficulties in checking on the use of individual control books in international transport operations - possible remedies

Although the number of infringements relating to the absence or improper use of the individual control book has declined with the gradual introduction of the tachograph, this type of infringement still accounts for the bulk of those detected in transport operations within the Community.

The Federal Republic of Germany underlined the fact that some of the provisions of Regulation (EEC) No. 543/69 are at variance with the AETR. Whereas the Community rules require some form of recording apparatus, the AETR at present makes provision only for an individual control book. The German Government proposes, in the interest of harmonization, that the provisions of the AETR be adapted as soon as possible to those of Regulation 543/69 (1).

Denmark reported that the problems encountered with the observation of the provisions on the use of the individual control book are less serious than in the past now that it has become obligatory to install and use the tachograph.

The United Kingdom reported that it was having no difficulties in this respect. The Luxembourg and Dutch authorities had no further observations to make. This question does not feature in the French and Belgian Governments' contributions to the 1978 Report.

(1) The Commission is setting about this task on behalf of the Community in a Working Party of the UN Economic Commission for Europe.

3. Proposals for changes in the standard form of report

It is gratifying to note that all the Member States are satisfied with the present standard form of report. This is borne out by the fact that none of them proposed any changes.

However, the Commission feels that it should make a few minor changes to take account of Regulation 1463/70 (tachograph) and the amendments to Regulation 543/69 with regard to vehicles being transported by ferryboat or train and to drivers' bonuses.

The Commission will be putting the necessary proposals to the Council sometime in 1980.

4. Proposals for measures to facilitate the application of Regulation (EEC) No. 543/69

The German Government again urged the Commission to encourage the Member States to monitor the social provisions relating to road transport in a uniform fashion and to harmonize the penalties imposed for infringements of the Regulation. The German authorities felt that a meeting should be held as soon as possible to discuss this matter.

The Luxembourg Government had no proposals for improving the application of Regulation 543/69 since it felt that it was not possible to make an assessment before a number of years had elapsed. However, the Grand Ducal Regulation providing for penalties for infringement of the Regulation concerned was adopted on 23.12.1972. In other words, a period of eight years should be long enough for the Luxembourg Government to be able to reach useful conclusions.

The Danish Government indicated that it was awaiting the outcome of negotiations currently under way in the Council Working Party on transport questions.

The Italian Government pointed out that a malfunction of the tachograph or odometer could cause the monitoring system to break down. Dismantling the faulty equipment and sending it to the manufacturer was very time-consuming, especially if the equipment had to be sent abroad. As it was not possible at present to find a temporary replacement for faulty equipment, drivers had to travel without a tachograph with all the consequences that this entailed. The Italian Government therefore proposes that individual control books should be used in such circumstances.

The Belgian, French, Irish and United Kingdom Governments have no proposals to make and the Dutch authorities have nothing to add to their contribution to previous reports.

C. SUMMARY AND CONCLUSIONS

Although some progress was made in 1978 compared with the previous year, the situation at the end of the year is not really satisfactory.

It was not possible to draw firm conclusions or compare statistics since the information supplied by the Member States is still patchy and lacking in uniformity. However, the following conclusions can be drawn :

- Regulations :

All Member States have adopted provisions introducing checks at the roadside and at operators' premises.

- Number and powers of the inspectors :

The information supplied by some governments is not detailed enough. More complete information on inspectors' powers in general should be provided so that an assessment can be made of the scope of the rules in force in their area.

- Inspection methods :

It is not possible on the basis of the information received to compare inspection methods in all the Member States or to ascertain whether the Member States give priority to roadside checks or checks at operators' premises and the reasons for their preference. Neither is it possible to assess the value of the inspection methods, given that so little information has been supplied. It is clear, however, that the extent of the checks carried out varies from one country to the next. In most cases, the number of checks carried out was inadequate.

- Infringements by nationals and non-nationals :

Satisfactory conclusions can only be drawn from the information supplied if a relationship is established between the number of checks and the number of infringements detected, which is not possible in the case of all the Member States.

- Penalties :

Some Member States give details of the amounts of fines imposed whereas others are less specific. Generally speaking, the Member States are beginning to supply more detailed information on the number of penalties imposed. Nevertheless, the Commission hopes that even more details will be provided in ^{the} future since the adoption of uniform procedures in all the Member States would make for more efficient checks, promote the harmonization of conditions of competition and compliance with the principle of equal treatment as regards penalties.

- Mutual assistance :

Although there has been a slight improvement as regards the mutual assistance provided for in Article 18(2) of Regulation 543/69, far greater efforts could be made in this field.

- Conclusions and suggestions by the Member States :

None of the Member States was entirely satisfied with the conditions for implementing the Community Regulation, but few proposals were put forward for improving the situation.

The Commission is bound to note that although the necessary provisions have been adopted in the Member States, as a general rule the practical application of these measures falls short of expectations. The extent to which checks are carried out and penalties imposed still varies from one country to the next. The Commission cannot help feeling that in some Member States checks are confined to nationals of the country concerned and where they are extended to foreign nationals the fines imposed are not as severe.

The Commission therefore wishes to stress that Regulation 543/69 cannot succeed as a Community instrument unless it is applied in a uniform fashion to nationals of all countries.

Although the standard form of report makes no mention of this point, the Commission would like to point out once more that problems have arisen because in some Member States the responsibility for infringements committed by the driver falls entirely on the employer, whereas in others it is shared by employer and employee. In yet others, the question of whether the employee alone is at fault has yet to be fully clarified.

The Member States must therefore step up their efforts to ensure that the rules are directly applied by introducing more effective checks and penalties and by affording each other the mutual assistance provided for in the Regulation.

The Commission hopes that all the Member States will make the necessary effort to enforce the Regulation more effectively ; for its part, the Commission will do all in its power to ensure that this goal is achieved.